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**ATTORNEY FOR PLAINTIFF**  
**UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**BILLINGS DIVISION**

<b>UNITED STATES OF AMERICA,</b>	<b>CR 18-135-BLG-SPW</b>
<b>Plaintiff,</b>	
<b>vs.</b>	<b>OFFER OF PROOF</b>
<b>TYSON ALLEN GILMOMRE,</b>	
<b>Defendant.</b>	

The United States of America, represented by Assistant United States Attorney Colin M. Rubich, files its offer of proof in anticipation of the change of plea hearing set in this case on March 26, 2019.

## **THE CHARGE**

The defendant, Tyson Allen Gilmore, is charged by indictment with conspiracy to possess with intent to distribute methamphetamine, in violation of 21 U.S.C. § 846 (Count I) and possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Count II).

## **PLEA AGREEMENT**

There is a plea agreement in this case. Gilmore will plead guilty to Count II, possession of methamphetamine with intent to distribute in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2. The United States will move to dismiss Count I of the indictment at sentencing. The United States presented all formal plea offers to Gilmore in writing. The plea agreement entered into by the parties and filed with the Court represents, in the government's view, the most favorable offer extended to the defendant. *See Missouri v. Frye*, 566 U.S. 134 (2012).

## **ELEMENTS OF THE CHARGE**

In order for Gilmore to be found guilty of Count II, possession with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, the United States must prove each of the following elements beyond a reasonable doubt:

**First**, the defendant knowingly possessed 500 grams or more of substance containing a detectable amount of methamphetamine; and

**Second**, the defendant knowingly possessed the methamphetamine with the intent to distribute it.

### **PENALTY**

Count II of the indictment carries a mandatory minimum penalty of ten years imprisonment, a \$10,000,000 fine, at least five years of supervised release, and a \$100 special assessment.

### **ANTICIPATED EVIDENCE**

If this case were tried in United States District Court, the United States would prove the following:

On August 10, 2018, Joshua Clause was arrested for trafficking methamphetamine.<sup>1</sup> After Clause's arrest, a source told law enforcement agents that Clause directed him/her to go to his house and remove 12 pounds of methamphetamine. Clause's co-conspirators gave the methamphetamine to the defendant, Tyson Gilmore. One of Clause's co-conspirators told law enforcement agents that Gilmore provided him with 15 pounds of methamphetamine to distribute in the Billings, Montana, area. Another co-conspirator admitted to

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<sup>1</sup> Clause pleaded guilty possession with intent to distribute methamphetamine and possession of a firearm in furtherance of a drug trafficking crime. He will be sentenced by this Court on April 19, 2019. CR 18-101-BLG-SPW.

receiving one and one half pounds of methamphetamine from Gilmore for further redistribution.

DATED this 25th day of March, 2019.

KURT G. ALME  
United States Attorney

/s/ Colin M. Rubich  
COLIN M. RUBICH  
Assistant U.S. Attorney